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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,953	09/19/2003	Taeko Ito	B588-699 (25815.715)	8338

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EXAMINER

PASIEWICZ, DANIEL M

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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09/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/665,953	Applicant(s) ITO ET AL.	
	Examiner DANIEL M. PASIEWICZ	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/9/2009 have been fully considered but they are not persuasive.
2. With respect to **claim 16** Applicant argues “one aspect of the invention...is not only ‘displaying’ information related to an image to be displayed, but also ‘determining’ whether the authentication data addition mode is set by the mode setting unit in response to the image capture instruction issued by the instruction unit” and “none of the references cited by the Examiner shows or suggests that the control device ‘determines’ whether the authentication data addition mode is set when the image capture instruction is issued”.
3. The Examiner respectfully disagrees. **Ohmura** discloses this determination in column 7 lines 1-7 and column 8 lines 1-24 as a watermarking mode can be selectively set by the user and after the shutter button is pressed shooting is controlled according to set imaging conditions (S1101) and then the watermarking mode is “determined” in S1102 and image data is recorded appropriately.
4. Additionally, Applicant states in page 7 paragraph 2 that “Applicants believe that these features of the invention are not obvious in view of the references cited by the Examiner, i.e., Applicant respectfully traverses the Examiner’s Official Notice as indicated in the Office Action.”
5. Regarding Examiner's use of Official Notice, Applicant’s attempted traversal is inadequate. “To adequately traverse such a finding, an applicant must specifically point

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out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." See MPEP §2144.03. Because the Applicant has not specifically pointed out the supposed errors in the Examiner's action, including stating why the noticed fact is not considered to be common knowledge or well-known in the art, the Examiner finds the traversal to be inadequate. However, in order to further advance prosecution the Examiner has provided U.S. Patent 7,095,873 to Venkatesan et al which discloses displaying an indication to the presence or non-presence of a watermark in column 11 lines 6-10.

6. **Claims 17-19** are not allowable for at least the reason that they depend from claim 16 which is not allowable for the reasons discussed above.

Claim Objections

7. Claim 19 is objected to because of the following informalities: Reference to an item not mentioned prior.

8. Claim 19 states "the first mode" in the second to last line when there is no prior mention of a first mode.

9. Appropriate correction is required.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,963,363 to Ohmura in view of U.S. Patent Application Publication 2003/0117513 to Anderson.

12. With respect to **claim 16 Ohmura** discloses, in Fig. 1-11, An imaging apparatus (Fig. 1) comprising: an image capture unit (202) (column 3 lines 46-48); a generating unit (204) that generates authentication data used to authenticate whether image data acquired by the image capture unit is altered (column 3 lines 50-52 and column 10 lines 10-15; where the water mark is the authentication data); an instruction unit (102) that inputs an image capture instruction (column 3 lines 37-38); a mode setting unit that sets an authentication data addition mode (column 7 lines 1-7); a recording unit (206) that records the image data acquired by the image capture unit (202) and the authentication data generated by the generating unit (204) in a removable recording medium (column 3 lines 57-61), , wherein the recording unit (206) records the image data acquired by the image capture unit (202) together with the authentication data in the removable recording medium in accordance with the image capture instruction issued by the instruction unit (102, if the authentication data addition mode is set by the mode setting unit, and records the image data acquired by the image capture unit without the authentication data in the removable recording medium in accordance with the image capture instruction issued by the instruction unit (102), if the authentication data addition mode is not set (column 8 lines 1-24); a display unit (101); and a control unit (209) that determines whether the authentication data addition mode is set by the mode setting unit in response to the image capture instruction issued by the instruction unit (102)

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(column 8 lines 4-6) and controls the display unit (101) (column 4 lines 10-11) in accordance with the mode set by the set unit (column 3 lines 34-37 and column 9 line 43 through column 10 line 2).

13. **Ohmura** does not expressly disclose the control unit controlling the display unit in accordance with the determination result so as to display an image relating to the image data which the image capture unit acquired in accordance with the image capture instruction and an additional information indicating that the authentication data is recorded with the image data in response to the image capture instruction, if the authentication data addition mode is set by the mode setting unit, and the control unit controlling the display unit so as to display an image relating to the image data which the image capture unit acquired in accordance with the image capture instruction but not to display the additional information in response to the image capture instruction, if the authentication data addition mode is not set.

14. However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of displaying an indication that an image is watermarked when displaying the image are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have displayed a presence of water mark indicator when displaying images as in Ohmura so that a user would be able to visually verify the image is protected against copyright infringement when viewing said image.

15. **Ohmura** in view of the Examiner's Official Notice does not disclose displaying the water mark indicator in the fashion as claimed.

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16. However, in analogous art, **Anderson** teaches, in Fig. 1-4, a display system in a digital camera (paragraph 25-26) that has a controller (207) to display an image immediately after capture (paragraph 31) along with overlays that comprise information about the image (paragraph 29; where the information comprises things such as overlays and date and time stamps). Therefore, **Anderson** teaches the control unit controlling the display unit so as to display an image relating to the image data which the image capture unit acquired in accordance with the image capture instruction and an additional information indicating that the authentication data is recorded with the image data in response to the image capture instruction if the authentication data addition mode of **Ohmura** is set, and the control unit controlling the display unit so as to display an image relating to the image data which the image capture unit acquired in accordance with the image capture instruction but not to display the additional information comprising a watermark indication if the authentication data addition mode is not set as **Ohmura** discloses attaching watermark information or not attaching watermark information and indicating the presence of the watermark indication would then correspond to the mode as it is being instantly reviewed after capture.

17. At the time the invention was made it would have been obvious to one of ordinary skill in the art to have displayed the watermarked image with a watermarked icon as taught by **Ohmura** in view of the Examiner's Official Notice immediately after capture as taught by **Anderson**, for doing so would allow the user immediate review of the picture that was just taken and if they are not satisfied with the picture he/she may simple discard that picture and shoot again (paragraph 31 of Anderson).

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18. With respect to **claim 17 Ohmura** in view of **Anderson** teaches wherein the control unit controls the display unit so as to display the image relating to the image data acquired by the image capture unit and the additional information before the recording unit records the image data and the authentication data as the review of the image is immediately after capture, if the authentication data addition mode is set by the mode setting unit (see paragraph 31 of **Anderson**).

19. With respect to **claim 18 Ohmura** in view of **Anderson** teaches wherein the generating unit generates the authentication data when the display unit displays the image relating to the image data acquired by the image capture unit and the additional information for similar reasons discussed above with respect to **claim 16**.

20. With respect to **claim 19 Ohmura** in view of **Anderson** teaches a memory (207 of **Ohmura**), wherein the image capture unit acquires the image data in response to the image capture instruction and stores the image data in the memory (column 3 lines 37-38 and column 3 lines 57-60), wherein the control unit controls the display unit so as to display a reduced image of the image data stored in the memory and the additional information, if the authentication data addition mode is set by the mode setting unit (paragraph 36 of **Anderson**), and wherein the recording unit records the image data stored in the memory with the authentication data in the removable recording medium in the first mode, if the authentication data addition mode is set by the mode setting unit (column 7 lines 1-7 of **Ohmura**).

Conclusion

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL M. PASIEWICZ whose telephone number is (571)272-5516. The examiner can normally be reached on M-F 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571)272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TUAN HO/

Primary Examiner, Art Unit 2622

DMP

September 2, 2009